

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

DAVID HOUSE,

Plaintiff,

v.

JANET NAPOLITANO, in her official capacity as  
Secretary of the U.S. Department of Homeland  
Security; ALAN BERSIN, in his official capacity as  
Commissioner, U.S. Customs and Border Protection;  
JOHN T. MORTON, in his official capacity as Director,  
U.S. Immigration and Customs Enforcement,

Defendants.

Case No. 1:11-cv-10852-DJC

**NOTICE**

Defendants hereby submit this Notice to inform the Court that, on March 19, 2012, the Ninth Circuit ordered *en banc* rehearing in *United States v. Cotterman*, 637 F. 3d 1068 (9th Cir. 2011), a case discussed in the briefing related to Defendants' motion to dismiss, and in the alternative, for summary judgment. A copy of the Ninth Circuit order is attached hereto.

Dated: March 26, 2012

Respectfully Submitted,

STUART F. DELERY  
Acting Assistant Attorney General

SANDRA M. SCHRAIBMAN  
Assistant Branch Director

*/s/Diane Kelleher*

DIANE KELLEHER  
Senior Trial Counsel  
U.S. Department of Justice, Civil Division  
Federal Programs Branch  
20 Massachusetts Ave., N.W., Room 5373  
Washington, D.C. 20530  
Tel.: (202) 514-4775  
Fax.: (202) 616-8470  
Email: [diane.kelleher@usdoj.gov](mailto:diane.kelleher@usdoj.gov)

**CERTIFICATION OF SERVICE**

I hereby certify that the foregoing document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants by First Class Mail, on the 26th of March, 2012.

*/s/Diane Kelleher*

DIANE KELLEHER

July 13, 2011